

REMARKS

The examiner has rejected claims 1-29 under 35 U.S.C 103(a) as being unpatentable over *Parry* (U.S. 5,710,941) in view of applicant's admitted prior art.

Claim 1 includes "adaptively controlling a persistency of a device driver present in memory on the basis of whether said intermediate driver is present in memory." Neither *Parry* nor the *admitted prior art* describe or suggest adaptively controlling a persistency of a driver.

In *Parry*, "the object of the invention ... is to provide a protected mode hard disk driver capable of substituting for the real mode hard disk drivers" (Col. 4, lines 16-18). In *Parry* the substitution of the driver occurs during startup and the operating system "thereafter interacts with the hard disk drive 44 through protected mode disk driver 50" (Col. 7, lines 49-54). Thus, *Parry* does not describe adaptively controlling the persistency of a device driver as recited in the applicant's claim 1.

In the *admitted prior art*, the persistency of the device driver is determined during initialization of the driver. For example, on page 4, lines 20-21 state, "the persistency status of a driver is selected as part of the driver installation procedure." Thus, *Parry* alone or in combination with the admitted prior art does not teach or suggest, "adaptively controlling a persistency of a device driver."

Claim 16 includes a device driver for controlling a network-interface card "in response to messages received from a calling process, said device driver being configured to set its persistency in said memory on the basis of said calling process." As described above, *Parry* substitutes the driver during start-up and the admitted prior art determines the persistency status of a driver as part of the driver installation procedure. The prior art does neither disclose nor suggests setting the persistency status "on the basis of said calling process" as in claim 16.

Claims 9 and 23 include similar limitations to claim 1 and are patentable for reasons similar to claim 1.

Claims 2-8, 10-15, 17-22, and 24-29 are dependent on claim 1, 9, 16, and 23 respectively and are patentable for at least the reasons as the claims on which they depend.

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Serial No. : 09/737,158
Filed : December 14, 2000
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Attorney's Docket No.: 10559-368001 / P10174

It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this reply should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this reply, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

Applicant asks that all claims be allowed. Please apply any charges or credits to deposit account 06-1050.

Respectfully submitted,

Date: Oct 15, 2004



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